



**House Commerce Committee
March 11, 2009
Testimony of Chris Fisher
Associated Builders and Contractors of Michigan**

Good Morning Chairman Jones and members of the Committee. Thank you for the opportunity to be here today. My name is Chris Fisher and I am with Associated Builders and Contractors of Michigan. I appear before this committee in opposition to HB 4282.

ABC is a statewide trade association working in partnership with four separate ABC chapters throughout the state representing contractors, subcontractors, material suppliers and related firms specializing in the commercial and industrial construction industry.

We are here in opposition to this bill, first and foremost, for the exact same reason that we opposed certain aspects of the Hire Michigan First legislation that was before this committee last month. Specifically because it will automatically disbar a contractor from state work if they are found in violation of Public Act 166 of 1965, Michigan's Prevailing Wage.

In doing so, the bill, as introduced, has no provision to differentiate between knowingly and unknowingly violating the state prevailing wage act.

As was the case with the aspects of Hire Michigan First, the wording of this bill does not differentiate between those contractors who willingly and continuously violate the prevailing wage act from those contractors who mistakenly classify the wage of an employee and immediately correct the error.

The concern, therefore, is that we are again running the risk of a reputable contractor who has an instance where the work classification of an employee is mistakenly inputted, and the error is then rectified immediately once the oversight is discovered, becoming disbarred.

To remedy this concern, our recommendation is that the bill be amended, as some of the Hire Michigan First bills were amended last month, to specify that it applies to contractors and vendors who “knowingly” violate the Prevailing Wage Act (PA 166 of 1965).

Our concern also extends to unintentional and minor violations of the Natural Resources and Environmental Protection Act which is also a part of this bill.

Another concern that we have with this legislation is that it would disbar a contractor or subcontractor for a violation that occurred three years prior to the effective date of the bill.

While we understand that the intent is to disbar firms with a violation going back three years, we believe it to be more appropriate to implement a three year phase after enactment of this legislation. This would alleviate concerns about the bill retroactively going back in time and imposing rules on projects that have long since been completed.

Just because legislation being considered today is able to go back in time three years and, does not mean that businesses or construction projects have that same luxury. So while we understand the intention of the three year language, we believe it should only apply after enactment of this bill, not before.

And by way of a clarification, Mr. Chairman, I sent you suggested language for an amendment regarding this issue, however it was to eliminate the three year window all together. I think that instead what makes the most sense is to leave the three year provision, but just make sure that it is phased after the effective date of the bill.

Once again, I would like to thank you Chairman Jones and members of the Committee for the privilege to be here today. I would be happy to take any questions anyone may have.